

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**October 27, 2003**

At 9:35 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Davis, Associate Justice; Robie, Associate Justice and Facey, bailiff.

**C041818 THE PEOPLE v. RABADUEX**

Cause called. Peter Dodd, court appointed counsel, argued for appellant. Patrick Whalen, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:00 a.m., the court recessed. At 10:05 a.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Robie, Associate Justice.

**C042315 CONNELL, as State Controller v. U.S. BANCORP et al.**  
**C042758 CONNELL, as State Controller v. ALLSTATE INSURANCE COMPANY et al.**

Cause called. Shawn D. Silva argued for appellant. Robert J. Stumpf Jr. argued for respondent, U.S. Bancorp et al. Sanford Kingsley argued for respondent, Allstate Insurance Company et al. Cause submitted.

At 10:37 a.m., the court recessed. At 10:39 a.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C043584 GRANITE CONSTRUCTION COMPANY et al. v. WORKERS'  
COMPENSATION APPEALS BOARD et al.**

Cause called. Timothy T. Flynn argued for petitioners. Vincent Bausano argued for respondents. Carl McReynolds, In Pro Per, did not appear. Cause submitted.

At 11:07 a.m., the court recessed. At 11:10 a.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Nicholson, Associate Justice.

**C042192 CALIFORNIA STATE EMPLOYEES ASSOCIATION v. CALIFORNIA PUBLIC  
EMPLOYEES RETIREMENT SYSTEM BOARD OF ADMINISTRATION**

Cause called. Jeffrey A. LeVee argued for appellant. Nancy T. Yamada argued for respondent. Cause submitted.

At 11:34 a.m., the court recessed. At 2:01 p.m., the court reconvened with Blease, Associate Justice; Morrison, Associate Justice; and Robie, Associate Justice.

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**October 27, 2003, continued**

**C042110      SCHROEDER v. COUNTY OF SACRAMENTO et al.**

Cause called. Donnie F. Schroeder argued In Pro Per as appellant. Lawrence J. Duran argued for respondents. Cause submitted.

At 2:11 p.m., the court recessed. At 2:13 p.m., the court reconvened with Scotland, Presiding Justice; Blease, Associate Justice; and Morrison, Associate Justice.

**C040451      In re MICHAEL F.; THE PEOPLE v. MICHAEL F.**

Cause called. Barbara Coffman, court appointed counsel, argued for appellant. Craig S. Meyers, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:42 p.m., the court recessed. At 2:47 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Morrison, Associate Justice.

**C043049      ROBINSON et al. v. ROBINSON**

Cause called. Paul A. Sloan argued for appellant. James M. Nelson argued for respondent. Cause submitted.

At 3:21 p.m., the court recessed. At 3:22 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Hull, Associate Justice.

**C040291      MOHAMED SR. v. ROGERS et al.**

Cause called. Karen E. Halbo argued for appellant. Steven P. Belzer argued for respondent. Cause submitted.

At 4:01 p.m., the court recessed. At 4:05 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

**C041993      ANDRIANARIVO v. ANDRIANARIVO**

Cause called. Jonah Andrianarivo argued In Pro Per as appellant. Brendon T. Ishikawa argued for respondent. Cause submitted.

At 4:29 p.m., the court recessed until 9:30 a.m., Monday, November 17, 2003.

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**October 27, 2003, continued**

- C041124      THE PEOPLE v. LEDESMA      (Not for Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Nicholson, J.  
Kolkey, J.
- C041346      THE PEOPLE v. BREDFIELD      (Not for Publication)**  
The judgment is reversed. Having thus reversed the judgment, "it is unnecessary to address any other issue raised by the parties in their briefs on appeal." (*People v. Castro* (2000) 78 Cal. App. 4th 1402, 1420.)  
RAYE, J.  
We concur: Blease, Acting P.J.  
Hull, J.
- C042390      THE PEOPLE v. PENLEY      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Blease, Acting P.J.  
Nicholson, J.
- C041511      MAULDIN et al. v. COUPE et al.      (Not for Publication)**  
The judgment is reversed and the matter is remanded to the trial court with directions to vacate its order granting defendants' motion for summary judgment and to enter a new order denying the motion. Plaintiffs are awarded costs on appeal.  
HULL, J.  
We concur: Davis, Acting P.J.  
Ray, J.
- C043271      KRAFT v. KRAUSCH      (Not for Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Davis, J.  
Raye, J.
- C037787      THOMPSON et al. v. MILLER JR. et al.**  
**C038013      THOMPSON et al. v. MILLER JR. et al.**  
BY THE COURT:  
Appellants Gary Thompson et al.'s petition for rehearing is denied.  
NICHOLSON, Acting P.J.

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**October 28, 2003**

- C041297      THE PEOPLE v. KIEHN      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Nicholson, Acting P.J.  
Morrison, J.
- C042340      THE PEOPLE v. ALISTAR INSURANCE COMPANY      (Not for Publication)**  
The judgment is affirmed.  
SIMS, Acting P.J.  
We concur: Nicholson, J.  
Kolkey, J.
- C042440      THE PEOPLE v. HAWKINS      (Not for Publication)**  
The judgment is affirmed.  
BLEASE, Acting P.J.  
We concur: Hull, J.  
Robie, J.
- C042594      THE PEOPLE v. POINTER      (Not for Publication)**  
The appeal is dismissed.  
BLEASE, Acting P.J.  
We concur: Hull, J.  
Robie, J.
- C043173      THE PEOPLE v. MALONE      (Certified for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Hull, J.
- C043897      THE PEOPLE v. GUTIERREZ      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed;  
however, we direct the trial court to further correct the abstract of judgment. The  
abstract shall indicate that the date of the sentencing hearing was March 11,  
2003; the date of conviction for all offenses was February 4, 2003; and that  
defendant's conduct credits were calculated subject to the section 2933.1  
limitation. The trial court shall forward a certified copy of the corrected abstract to  
the Department of Corrections.  
RAYE, J.  
We concur: Sims, Acting P.J.  
Davis, J.



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**October 29, 2003, continued**

- C040845      THE PEOPLE v. GIBSON      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Nicholson, J.
- C041225      THE PEOPLE v. POWELL      (Not for Publication)**  
The judgment and the order revoking probation are reversed. The cause is remanded to the trial court to enter a new order reinstating probation and to resentence the defendant in conformance with Penal Code section 1210.1, subdivision (e)(3)(D).  
MORRISON, J.  
We concur: Blease, Acting P.J.  
Davis, J.
- C041319      THE PEOPLE v. KELLEY      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment showing the correct number of presentence custody credits and to forward a certified copy to the Department of Corrections.  
MORRISON, J.  
We concur: Scotland, P.J.  
Raye, J.
- C041716      THE PEOPLE v. LE      (Not for Publication)**  
The judgment is affirmed.  
KOLKEY, J.  
We concur: Nicholson, Acting P.J.  
Robie, J.
- C041776      THE PEOPLE v. TRESNER      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur: Davis, Acting P.J.  
Robie, J.
- C042263      THE PEOPLE v. INGRAM      (Not for Publication)**  
**C042264**      The appeal is dismissed.  
ROBIE, J.  
We concur: Scotland, P.J.  
Hull, J.

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**October 29, 2003, continued**

- C043480      THE PEOPLE v. BROWN      (Not for Publication)**  
The abstract of judgment is modified...  
As modified, the judgment is affirmed. The trial court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections.  
Raye, J.  
We concur:    Sims, Acting P.J.  
                 Davis, J.
- C043930      THE PEOPLE v. PERRY      (Not for Publication)**  
The judgment is affirmed.  
HULL, J.  
We concur:    Sims, Acting P.J.  
                 Davis, J.
- C037736      GARCIA v. STATE DEPARTMENT OF EDUCATION**  
**C038300      GARCIA v. STATE DEPARTMENT OF EDUCATION**  
**(Not for Publication)**  
The judgment is affirmed. The order denying Garcia's motion for attorney fees under section 1021.5 is affirmed. The parties shall bear their own costs on appeal.  
DAVIS, J.  
We concur:    Blease, Acting P.J.  
                 Raye, J.
- C040201      KATZ COMMUNICATIONS, INC. v. JOSEPH GAMBLE STATIONS, INC.**  
**(Not for Publication)**  
The judgment is affirmed. Plaintiff is awarded its costs on appeal. (Rule 27(a), Cal. Rules of Court.)  
KOLKEY, J.  
We concur:    Nicholson, Acting P.J.  
                 Robie, J.
- C042502      HARD et al. v. CALIFORNIA STATE EMPLOYEES ASSOCIATION**  
**(Certified for Publication)**  
The motion for judicial notice is denied. The order of the trial court is affirmed.  
DAVIS, J.  
We concur:    Sims, Acting P.J.  
                 Hull, J.

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**October 29, 2003, continued**

- C042883      MEEKER v. NORENE et al.      (Not for Publication)**  
The judgment of dismissal is affirmed.  
NICHOLSON, J.  
We concur: Scotland, P.J.  
Raye, J.
- C041328      In re A.B. et al.; BUTTE COUNTY CHILDREN'S SERVICES DIVISION v. T.H.      (Not for Publication)**  
The juvenile court's orders and judgment are affirmed.  
RAYE, J.  
We concur: Nicholson, Acting P.J.  
Morrison, J.
- C043005      In re BURT M. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. NAKETA P. and BEVERLY G.      (Not for Publication)**  
The juvenile court's orders are affirmed.  
SIMS, J.  
We concur: Scotland, P.J.  
Nicholson, J.
- C041407      GARABEDIAN as Executor, etc. v. RASSBACH-GARABEDIAN, etc. and DEPARTMENT OF CHILD SUPPORT SERVICES**  
BY THE COURT:  
Appellant's petition for rehearing is denied.  
MORRISON, Acting P.J.

**October 30, 2003**

- C041173      THE PEOPLE v. LEWIS      (Not for Publication)**  
The judgment is affirmed.  
ROBIE, J.  
We concur: Morrison, Acting P.J.  
Hull, J.
- C041389      THE PEOPLE v. CARRELL      (Not for Publication)**  
The judgment is modified... So modified, the judgment is affirmed. The clerk of the superior court shall forward a certified copy of the corrected judgment to the Department of Corrections.  
BLEASE, Acting P.J.  
We concur: Raye, J.  
Morrison, J.



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**October 30, 2003, continued**

- C041588      THE PEOPLE v. CALVERT      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Robie, J.
- C042094      THE PEOPLE v. COURTNEY      (Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur:    Blease, Acting P.J.  
                 Davis, J.
- C042120      THE PEOPLE v. WEST      (Not for Publication)**  
The judgment of conviction is affirmed. The matter is remanded to the trial court for further proceedings and preparation of an amended abstract of judgment consistent with this opinion. Thereafter, the trial court shall forward a certified copy of the amended abstract of judgment to the Department of Corrections.  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Robie, J.
- C042900      THE PEOPLE v. WALTER      (Not for Publication)**  
The judgment is modified... As modified, the judgment is affirmed.  
MORRISON, J.  
We concur:    Scotland, P.J.  
                 Raye, J.
- C043067      THE PEOPLE v. HER      (Not for Publication)**  
We therefore direct the superior court to strike the restitution fine imposed upon revocation of appellant's probation pursuant to section 1202.4(b), amend the abstract of judgment accordingly, and forward a copy of the amended abstract to the Director of the Department of Corrections. The section 1202.4(b) restitution fine imposed upon conviction remains in effect. In all other respects, the judgment is affirmed.  
BLEASE, Acting P.J.  
We concur:    Raye, J.  
                 Morrison, J.

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**October 30, 2003, continued**

- C041183      SHADE v. DEPARTMENT OF FINANCIAL INSTITUTIONS**  
**(Not for Publication)**  
The judgment is affirmed.  
MORRISON, J.  
We concur:    Nicholson, Acting P.J.  
                 Raye, J.
- C041418      CONSTANCIO et al. and BEATTIE v. COUNTY OF SAN JOAQUIN et al. and**  
**BAVA**  
**(Not for Publication)**  
The judgment is modified... As so modified, the judgment is affirmed. The parties shall bear their own costs on appeal. (California Rules of Court, rule 27(a)(3).)  
NICHOLSON, J.  
We concur:    Sims, Acting P.J.  
                 Davis, J.
- C042656      INTERIOR PARTITIONS, INC. v. BAY COMMERCIAL CONSTRUCTION, INC.**  
**(Not for Publication)**  
The judgment is affirmed. The matter is remanded to the trial court for it to consider Bay's request for attorney fees on appeal. Interior's request for attorney fees and costs on appeal is denied.  
DAVIS, J.  
We concur:    Scotland, P.J.  
                 Hull, J.
- C043197      HENDERSON et al. v. LIGHTY et al.**  
**(Not for Publication)**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We concur:    Nicholson, J.  
                 Raye, J.
- C043584      GRANITE CONSTRUCTION COMPANY et al. v. WORKERS'**  
**COMPENSATION APPEALS BOARD and McREYNOLDS**  
**(Certified for Publication)**  
The order of the Board on reconsideration is annulled. The matter is remanded to the Board for further proceedings consistent with the views expressed in this opinion. Petitioners shall receive their costs of this proceeding. (CERTIFIED FOR PUBLICATION)  
HULL, J.  
We concur:    Blease, Acting P.J.  
                 Sims, J.



